

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA**

In re

Mercy Hospital, Iowa City, Iowa, *et al.*,

Debtors.

Chapter 11 Cases

Case No. 23-00623 (TJC)

Jointly Administered

**APPELLANT'S DESIGNATION OF RECORD ON APPEAL AND APPELLANT'S
STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL TO DISTRICT COURT**

COMES NOW, Appellant Mercy Health Network, Inc., d/b/a MercyOne, by and through undersigned counsel, pursuant to Rule 8009 of the Federal Rule of Bankruptcy Procedure, respectfully (i) designates the following items from bankruptcy case number 23-00623 for inclusion in the record on appeal from the *Memorandum and Order Overruling MercyOne's Objection to the Debtors' Plan Confirmation* and the *Findings of Fact, Conclusions of Law, and Order Confirming the Debtors' Joint Chapter 11 Plan of Liquidation* entered by the United States Bankruptcy Court for the Northern District of Iowa on June 7, 2024; and (ii) presents the following Statement of Issues to be Presented on Appeal:

I. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

<u>Filing Date</u>	<u>Docket No.</u>	<u>Description</u>
08/07/2023	1	Chapter 11 Voluntary Petition for Non-Individuals with Incomplete Schedules.
08/08/2023	37	Order Granting Motion for Joint Administration on Lead Case 1:23-bk-623 (Related Doc. [2]) Ordered on 8/8/2023.
02/23/2024	760	Disclosure Statement of Debtors and, Chapter 11 Plan of Liquidation. Filed by Mercy Hospital, Iowa City, Iowa.
03/1/2024	796	Motion for Approval of Solicitation Procedures Filed by Mercy Hospital, Iowa City, Iowa
03/29/2024	919	Support Document re: Disclosure Statement, Plan Notice of Debtors' First Amended Combined Disclosure Statement and Joint Chapter 11 Plan Filed by Debtor Mercy Hospital, Iowa City, Iowa (re: [760] Disclosure Statement, Plan)
04/3/2024	926	Order (I) Approving Disclosure Statement; (II) Scheduling Hearing on Confirmation of Plan; (III) Establishing Deadlines

<u>Filing Date</u>	<u>Docket No.</u>	<u>Description</u>
		and Procedures for (A) Filing Objections to Confirmation of Plan, (B) Claim Objections, and (C) Temporary Allowance of Claims for Voting Purposes; (IV) Determining Treatment of Certain Unliquidated, Contingent, or Disputed Claims for Notice, Voting, and Distribution Purposes; (V) Setting Record Date; (VI) Approving (A) Solicitation Packages and Procedures for Distribution, (B) Form of Notice of Hearing on Confirmation and Related Matters, and (C) Forms of Ballots; (VII) Establishing Voting Deadline and Procedures for Tabulation of Votes; and (VIII) Granting Related Relief (Related Doc 796, 760, 919).
04/03/2024	927	Modified Disclosure Statement and Notice Thereof Filed by Mercy Hospital, Iowa City, Iowa (related docs: [760] Disclosure Statement, Plan).
04/04/2024	929	Modified Chapter 11 Plan and Notice Thereof. Filed by Mercy Hospital, Iowa City, Iowa (related docs: [760] Disclosure Statement, Plan).
04/04/2024	930	Notice of Hearing Re: Disclosure Statement and Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code and Related Objection Deadline Filed by Mercy Hospital, Iowa City, Iowa (related docs: [927] Disclosure Statement). Objections due by 5/6/2024. Hearing scheduled for 5/16/2024 at 10:30 AM at Cedar Rapids Court Room.
04/29/2024	993	Modified Chapter 11 Plan -Supplement., Modified Disclosure Statement - Supplement Filed by Mercy Hospital, Iowa City, Iowa (related docs: [760] Disclosure Statement, Plan, [927] Disclosure Statement, [929] Plan).
05/02/2024	1007	Exhibit List for May 16, 2024 Hearing and Witness List Filed by Debtor Mercy Hospital, Iowa City, Iowa (related docs: [930] Notice of Hearing and Bar Date).
05/02/2024	1008	Exhibit List for May 16, 2024 Hearing Filed by Creditor Committee Official Committee of Unsecured Creditors.
05/02/2024	1009	Exhibit List for 5/16/2024 Hearing and Witness List Filed by Creditor Catholic Health Initiatives-Iowa Corp; Mercy ACO, LLC; Mercy Clinics, Inc.; Mercy College of Health Sciences; and MHN ACO, LLC (together "CHI") (re docs: [930] Notice of Hearing and Bar Date)
05/06/2024	1016	Objection to Confirmation of Plan Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation Filed by Mercy Health Network, Inc. (related docs: [929] Plan, [993] Plan, Disclosure Statement).
05/09/2024	1037	Report on Ballots Filed by Debtor Mercy Hospital, Iowa City, Iowa.
05/09/2024	1040	Objection to Exhibits re: Exhibit List Filed by Creditor Mercy Health Network, Inc. (related docs: [1007] Exhibit List)

<u>Filing Date</u>	<u>Docket No.</u>	<u>Description</u>
05/14/2024	1050	Modified Chapter 11 Plan of Liquidation. Filed by Mercy Hospital, Iowa City, Iowa (related docs: [993] Plan, Disclosure Statement).
05/14/2024	1052	Declaration re: Mark E. Toney in Support of Confirmation of Debtors' Joint Chapter 11 Plan of Liquidation Filed by Debtor Mercy Hospital, Iowa City, Iowa (related docs: [1050] Plan).
05/14/2024	1053	Brief -Debtors' (I) Memorandum of Law in Support of Confirmation of Debtors' First Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation and (II) Omnibus Reply to Objections to Confirmation Filed by Debtor Mercy Hospital, Iowa City, Iowa (related docs: [1050] Plan).
05/14/2024	1054	Exhibit List for May 16, 2024 Hearing and Witness List - AMENDED Filed by Debtor Mercy Hospital, Iowa City, Iowa.
05/16/2024	1061	Debtors' Exhibit List from May 16, 2024 Hearing (related docs: [833] Application for Compensation, [842] Application for Compensation, [927] Disclosure Statement, [929] Plan, [979] Motion, [1050] Plan).
05/16/2024	1062	Proceeding Memo and Order (related docs: [833] Application for Compensation, [842] Application for Compensation, [927] Disclosure Statement, [929] Plan, [979] Motion, [1050] Plan) Matter Under Advisement.
06/07/2024	1113	Memorandum Opinion and Order Overruling MercyOne's Objection to Debtors' Plan Confirmation Ordered on 6/7/2024. (related docs: [929] Plan, [993] Plan, Disclosure Statement, [1016] Objection to Confirmation of the Plan, [1050] Plan).
06/07/2024	1114	Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Joint Chapter 11 Plan of Liquidation Ordered on 6/7/2024. (related docs: [929] Plan, [993] Plan, Disclosure Statement, [1050] Plan).
06/07/2024	1115	Notice of Confirmation of Plan (related docs: [1114] Order Confirming Chapter 11 Plan).
06/17/2024	1123	Notice of Appeal and Statement of Election to BAP filed by MercyOne (related docs: [1113] Order, [1114] Order Confirming Chapter 11 Plan).
06/17/2024	1124	Motion To Stay Pending Appeal re: Order Confirming Chapter 11 Plan Filed by Mercy Health Network, Inc. (related docs: [1114] Order Confirming Chapter 11 Plan).
06/18/2024	1126	Hearing Set (related docs: [1124] Motion To Stay Pending Appeal). Hearing scheduled for 6/21/2024 at 01:30 PM at Telephonic Hearing.
06/20/2024	1133	Joint Objection to Motion To Stay Pending Appeal and Reservation of Rights Filed by Mercy Hospital, Iowa City, Iowa (related docs: [1124] Motion To Stay Pending Appeal)
06/21/2024	1137	Proceeding Memo and Order Re: Motion to Stay Pending Appeal (related Doc: [1124]) Ordered on 6/21/2024.

<u>Filing Date</u>	<u>Docket No.</u>	<u>Description</u>
06/24/2024	1139	Notice of Occurrence of Ch 11 Plan Effective Date Filed by Mercy Hospital, Iowa City, Iowa (related docs: [1113] Order, [1114] Order Confirming Chapter 11 Plan).
06/24/2024	1145	Transcript regarding Hearing Held on 05/16/2024 re: Modified Chapter 11 Plan and Notice Thereof; Modified Disclosure Statement and Notice Thereof.
06/24/2024	1146	Supporting Document re: Notice of Appeal and Statement of Election Filed by Creditor Mercy Health Network, Inc. (related docs: [1123] Notice of Appeal and Statement of Election).
6/25/2024	1148	Notice of Filing Transcript of 5/16/2024 Hearing re: Modified Chapter 11 Plan and Notice Thereof; Modified Disclosure Statement and Notice Thereof (related docs: [1145] Transcript).
06/26//2024	1152	Acknowledgment Received from BAP Appeal filed on June 26, 2024 Case No. 2406005 (related docs: [1123] Notice of Appeal and Statement of Election)
07/03/2024	1155	Request for Transcript of 6/21/2024 Hearing re: Motion to Stay Pending Appeal.
07/09/2024	1158	Transcript regarding Hearing Held on 6/21/24 RE: Motion To Stay Pending Appeal re: Order Confirming Chapter 11 Plan Filed by Mercy Health Network, Inc.
07/10/2024	1163	Notice of Filing of Transcript. Notice is hereby given that a transcript of the Motion to Stay Pending Appeal Re: Order Confirming Chapter 11 Plan hearing held on June 21, 2024 has been filed.
07/15/2024	1166	Copy of Judgment Re: Appeal from BAP 24-6005. Case was transferred to U.S. District Court for the Northern District of Iowa. (related docs: [1123] Notice of Appeal and Statement of Election)
07/18/2024	1170	Acknowledgment Received from USDC Appeal filed on July 16, 2024 Case No. 24-cv-00068-CJW-MAR (related docs: [1123] Notice of Appeal and Statement of Election)

II. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

Appellant Mercy Health Network, Inc., d/b/a MercyOne, submits the following statement of issues to be presented on appeal:

- A. Did the Bankruptcy Court err in overruling the Objection of MercyOne to Confirmation of the Debtors' Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation and confirming the Debtors' Combined Chapter 11 Plan of Liquidation where the Chapter 11

Plan of Liquidation contains impermissible releases by the Debtors and of non-debtor third parties (together, the “Releases”)?

- B. Did the Bankruptcy Court err in finding that the Releases satisfy and are permissible under the factors set forth in *In re Master Mortg. Inv. Fund, Inc.*, 168 B.R. 930 (Bankr. W.D. Mo. 1994)?
- C. Did the Bankruptcy Court err in finding that a party’s opting out of the Combined Plan or its failing to vote for or against the Combined Plan could be viewed as consent to the Releases?
- D. Did the Bankruptcy Court err in finding that MercyOne lacked standing to object to non-debtor third-party releases because of its decision to opt-out?

Dated: July 19, 2024

Respectfully submitted,

/s/ Christopher J. Jessen

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CERTIFICATE OF SERVICE

The undersigned certifies, under penalty of perjury, that on July 19, 2024, the foregoing document was electronically filed with the Clerk of Court using the Northern District of Iowa CM/ECF and the document was served electronically through the CM/ECF system to the parties of the Chapter 11 Cases.

/s/ David B. Goroff
David B. Goroff